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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**
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8 RAYFORD C. WILLIS,

9 *Plaintiff,*

10 vs.

11 LAS VEGAS METROPOLITAN POLICE
12 DEPARTMENT, *et al.*,

13 *Defendants.*
14

2:08-cv-00581-RCJ-NJK

ORDER

15 This long-closed prisoner civil rights action comes before the Court following plaintiff's
16 filing of an application to proceed *In forma Pauperis* (Docket No. 12) with a purported
17 amended habeas petition and a motion (Docket No. 13) for appointment of counsel.

18 This civil rights action was dismissed without prejudice by entry of final judgment over
19 five years ago. The Court recently denied plaintiff's serial post-judgment motion for
20 appointment of counsel because the action was long closed. Plaintiff may not simply start
21 filing habeas pleadings and motions in a closed civil rights action. Plaintiff's habeas action
22 in No. 3:09-cv-00172-ECR-RAM challenging the same conviction was dismissed also years
23 ago, and the Court has found it necessary to bar plaintiff from filing further papers in that
24 action.

25 Striking plaintiff's fugitive filings in this action without redirecting their filing elsewhere
26 will not result in substantial prejudice. *Inter alia*, after taking judicial notice of the related state
27 and federal online docket records, it is abundantly clear to the Court that: (a) the timeliness
28 of a properly commenced habeas action would not hinge at this juncture upon the filing date

1 of these fugitive papers; and (b) there is no habeas jurisdiction at this point because plaintiff's
2 sentence has fully expired and he thus no longer is in custody for purposes of federal habeas
3 jurisdiction. See, e.g., *Maleng v. Cook*, 490 U.S. 488, 491-92 (1989). *Sua sponte* redirection
4 of plaintiff's fugitive filings to a new action accordingly would be both a futile exercise and a
5 waste of limited judicial resources.

6 Nothing in this order directs plaintiff to file any particular papers in a new action and/or
7 suggests that a new action would be timely or within the jurisdiction of the Court at this point.

8 Given plaintiff's repeated frivolous filings of fugitive documents in long-closed actions
9 on the docket of this Court, no further filings will be accepted in this matter.

10 This action has been, and remains, closed. That is the Court's final word on the
11 matter.

12 IT THEREFORE IS ORDERED that plaintiff's application (Docket No. 12) to proceed
13 *In Forma Pauperis*, the habeas petition attached therewith, and motion (Docket No. 13) for
14 appointment of counsel shall be STRICKEN.

15 IT FURTHER IS ORDERED that the Clerk of Court shall accept no further papers from
16 plaintiff for filing in this action, other than a notice of appeal from this order; and the Clerk
17 shall designate plaintiff as a restricted filer on the docket sheet.

18 DATED: April 9, 2014.

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22 NANCY J. KOPPE
23 United States Magistrate Judge
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